



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 22nd day of December, 1999

Essential Air Service at

DECATUR, ILLINOIS

Under 49 U.S.C. 41731 *et seq.*

Docket OST-1999-6255

Served: December 28, 1999 - 9

**ORDER ALLOWING SUSPENSION OF SERVICE
AND MODIFYING ESSENTIAL AIR SERVICE DETERMINATION**

Summary

By this order, the Department is allowing Great Lakes Aviation, Ltd., d/b/a United Express, to suspend its essential air service (EAS) at Decatur, Illinois, effective December 22, 1999. We will also amend the community's two-hub EAS determination to recognize service to a single hub, either Chicago or St. Louis. (See Appendix A for a map.)

Background

The essential air service determination for Decatur, as last established by Order 80-2-124, February 25, 1980, requires at least two daily round trips to both Chicago (with no more than one stop) and St. Louis (nonstop) providing a total of at least 67 seats in each direction.

On September 23, 1999, Great Lakes filed a 90-day notice of its intention to suspend its subsidy-free air service at Decatur effective December 22, 1999. Great Lakes' suspension of service would reduce the community's service below its designated essential air service level. Great Lakes currently provides three round trips a day (two one-stop via Springfield and one nonstop) in the Decatur-Chicago O'Hare market, two with 19-seat Beech aircraft and one with 30-seat Brasilias.¹ Decatur is also served by Trans States Airlines, Inc., d/b/a Trans World Express, providing five nonstop round trips a day to St. Louis with reduced weekend service provided with 19-seat Jetstream aircraft.

Great Lakes has stated that its traffic and revenues at Decatur have been significantly lower than the levels needed to cover the costs of providing the Decatur-O'Hare service.

¹ December 1999 *Official Airline Guide*. Great Lakes instituted this service pattern within the past month. Until September 1999, the carrier provided three nonstop round trips with all 19-seat aircraft. From September through November 1999, it offered only two nonstop round trips.

The carrier stresses that it is hampered in its efforts to improve its schedules between Decatur and O'Hare because of the unavailability of landing and take-off slots at O'Hare. In addition, Great Lakes asserts that it cannot effectively compete against the significantly greater number of flights offered to a variety of hubs, including Chicago, at nearby Springfield and Champaign, Illinois.

Community Comments

On October 22, we received an objection to the proposed termination of Decatur-O'Hare service from the Decatur Park District. The community emphasized that Decatur's dual-hub EAS definition to both Chicago and St. Louis is necessary for its businesses. It states that when Great Lakes reinstituted Decatur-O'Hare service in October 1998, after the carrier's shut-down in May 1997, it committed to at least a two-year time frame to test the credibility of the O'Hare market and it should hold to that commitment. The community notes that Great Lakes suspended one of its three round trips in mid-September and that action made it difficult for the traveling public to support the service. The carrier reinstated the third round trip in early November.

Decatur believes Great Lakes' service could be more competitive if it would provide the community with a five- or six-round-trip-a-day schedule. The community points out that its service has been provided in conjunction with Mattoon, a community that has four EAS slot exemptions dedicated to it for O'Hare. However, Great Lakes recently replaced Decatur with Springfield as the intermediate stop on Mattoon-O'Hare service. The community argues that one community should not lose service for the purpose of enhancing Great Lakes' posture competitively at another airport, as seems to be the case here. In addition, the community urges that four O'Hare slots be dedicated for EAS at Decatur.

We received additional comments from Decatur on November 22 requesting that if Great Lakes is allowed to suspend Decatur service, it should be effective January 21, 2000, rather than December 22 in order to coincide with the recent order requesting replacement service at Mattoon, Illinois. The community has informed us that Great Lakes has agreed to provide Decatur's service to O'Hare until January 4.

On December 8 Decatur filed a motion for leave to file a document out of time.² That document, while reiterating the plea that we hold Great Lakes in, seek permanent air service, and provide slot exemptions at O'Hare for Decatur, contains supplemental objections that largely involve its interpretation of 49 U.S.C. 41733(e). We disagree with Decatur's interpretation. Specifically, 49 U.S.C. 41733(e), which has always been a part of the EAS program,³ authorizes the Department to make appropriate adjustments, as time goes by, to EAS service levels. Despite its clear and consistent language,⁴ the

² We will grant the motion.

³ See §419(a)(2)(C) of the former Federal Aviation Act of 1958; §419 was the original authority for the EAS program.

⁴ "(e) Review. The Secretary shall review periodically the level of basic essential air service for each eligible place. Based on the review and consultation with an interested community and the appropriate

community now contends that the provision does not apply to certain communities, like Decatur, that had been given essential air service determinations prior to October 1, 1988, the effective date of the 1987 re-authorization of the EAS program, and the determinations had not been changed by December 29, 1988, a date specified in the statute. The community contends that the clear purpose of the Congress in utilizing these two dates was to counter consistent efforts by the Department to lower the quality (and cost) of the service it subsidized, efforts that led many potential EAS passengers to lose faith in the program and do their travel by other means, thereby actually increasing the program's subsidy cost. The 1987 re-authorization upgraded the types of aircraft to be used in the program (pressurized), decreased the target load factors (65% to 60%, thereby making more passenger room), etc. These service enhancements were intended by the Congress, the argument goes, to be engrafted upon existing EAS determinations except in those instances in which, by December 29, 1988, the Department implemented a change. From this, the community contends, it is clear that the Department's authority in 49 U.S.C. 41733(e), read in light of the "guarantee" of then-existing service levels in 49 U.S.C. 41733(a), extends only to increasing EAS service levels at those favored points, not lessening them.

The Department sees two problems with this contention. The first is that it ignores the clear language of 49 U.S.C. 41733(e), which easily could say, but does not, that the Secretary may make "upward" adjustments in EAS levels, or "upward but not downward" adjustments. By contrast, the statute uses the simple term "adjustments", without further limitation. The second problem is that the argument misses the true purpose of 49 U.S.C. 41733(a), which was to avoid chaos as the program transitioned from the 1978 authorization to the 1987 re-authorization. The changes wrought by the 1987 re-authorization were substantial; they arguably called upon the Department to re-assess and re-determine dozens and dozens of EAS service levels around the country, with involvement of State and local bodies in each case, and to do so in just one year. Realizing the impossibility of doing this with any of the care and consideration for local needs that it wants the program to have, the Congress "grandparented" existing EAS determinations until the Department could get to them in proper order, but allowed the Department until December 29, 1988 to correct the most egregious situations. The purpose was not to insulate any point from the rigors of 49 U.S.C. 41733(e).

Decision

After careful consideration of Great Lakes' notice and the community's response, we have decided to allow Great Lakes to suspend service at the end of its 90-day notice period, effective December 22, 1999. We will also modify Decatur's essential air service determination to guarantee service to a single hub, Chicago or St. Louis, rather than both.

In reaching our decision, we have reviewed Decatur's service requirements in the context of the significant changes that have occurred in the essential air service program during the 19 years that have passed since we last considered those requirements. In the Department's continuing commitment to administering the program in the most effective

State authority of the State in which the community is located, the Secretary may make appropriate adjustments in the level of service."

manner, balancing subsidy costs and benefits, we have routinely reexamined all elements of each program-eligible community's situation, including the guarantee of service to more than one hub. In recent years, we have eliminated guarantees of service to a second hub where the service no longer appeared to be cost-effective -- *i.e.*, where it was underused or unnecessary in view of the service available to the community's remaining hub or the community's proximity to other service.⁵ As we have explained above, 49 U.S.C. 41733(e) requires the Department to periodically review EAS determinations and gives the Department the discretion to make any adjustment in the community's EAS definition it deems appropriate.

When we last reviewed Decatur's EAS definition in 1980, scheduled service was provided by Ozark primarily to Chicago and St. Louis. At that time, Chicago was the overwhelming community of interest for most passengers. Twice as many passengers utilized the Chicago hub over St. Louis. By 1990, traffic was almost equally divided between Chicago and St. Louis and was carried by Simmons Airlines, d/b/a American Eagle and US Air Express (Air Midwest), respectively. Chicago traffic began to decline in 1993 and by 1995, Great Lakes replaced Simmons in the Decatur-Chicago market when the Department granted Great Lakes 24 O'Hare slot exemptions to provide service at six Illinois and Indiana communities.⁶ With four of the slots it acquired, the carrier provided service to Decatur as an intermediate stop on its flights between Mattoon and O'Hare. In 1995, Decatur generated 5,598 enplanements to O'Hare (15 per day) and 21,316 enplanements to St. Louis (58 per day).⁷

Great Lakes stated that its recent decision to file notice to suspend service was due to low ridership and the limited availability of O'Hare slots, resulting in service that is uneconomic for the carrier. During the most recent 12-month periods for which data are available, Great Lakes' service to O'Hare accounted for 4,961 enplanements, or 14 per day (year ended September 30, 1999). In comparison, Trans States' service to St. Louis accounted for 17,297 enplanements, or 47 enplanements per day (year ended June 30, 1999).⁸

Trans States' service to St. Louis, whose ridership greatly exceeds that of Great Lakes' service to Chicago, will continue to provide the community with a link to the national air transportation network. Furthermore, Decatur is situated only 43 highway miles east of the Springfield airport, and approximately 50 highway miles southwest of the Champaign/Urbana airport. Currently, Springfield receives 13 flights a day to Chicago

⁵ For example, see Orders 87-1-38, January 20, 1987, regarding Elkins, West Virginia; 90-10-13, October 12, 1990, regarding North Platte, Nebraska; 94-5-6, May 6, 1994, regarding Muscle Shoals, Alabama, and Laurel/Hattiesburg, Mississippi; 95-1-45, January 27, 1995, regarding El Dorado/Camden, Arkansas; 98-8-15, August 13, 1998, regarding Pellston, Michigan; and 99-7-14, July 22, 1999, regarding Jacksonville/Camp Lejeune, North Carolina.

⁶ See Order 94-10-47 granting Great Lakes slot authority at O'Hare to provide essential air service at Bloomington, Muncie, and Terre Haute, Indiana, and Danville, Galesburg, and Mattoon, Illinois.

⁷ Averages are based on 365 service days a year.

⁸ From RSPA Form 298-C, schedule T-1, for Great Lakes, and the Airport Activity Statistics for Trans States. The enplanement figures used above represent one-half of the Origin and Destination traffic. Averages are based on 365 service days a year.

(all but two operated nonstop) from American Eagle and Great Lakes, and 9 nonstop round trips a day to St. Louis. Nearby Champaign receives nonstop service to Chicago with 64-seat ATR's, to Detroit and Pittsburgh with 35-seat Saab's, and to Indianapolis and St. Louis with 19-seat Jetstream aircraft.⁹ Under these circumstances, we are unable to conclude that subsidizing Great Lakes' Decatur-Chicago service would be cost-effective and warranted.¹⁰

We are sympathetic to Decatur's service needs and interest in retaining O'Hare service. However, our program policy has been not to subsidize service for second hubs, especially when the preponderance of traffic travels to the primary hub, which in this case is St. Louis. Thus, we will not hold Great Lakes in the Decatur-O'Hare market beyond the 90-day notice period, December 22.

As the community has correctly noted, we have requested proposals for service at Mattoon, the community Great Lakes has historically linked with Decatur. Proposals were due on December 9; none have been filed to date. Carriers submitting applications for service to Mattoon may wish to consider Decatur as an intermediate stop on flights to O'Hare, and the Department would certainly entertain such a proposal.

Petitions for Reconsideration

In accordance with our procedures (14 CFR 302.37), interested persons may file petitions for reconsideration of our decision within 30 days of the date of service of this order. Such petitions should be filed with the Department's Docket Operations and Media Management Division in Docket OST-1999-6255.¹¹ With regard to our modification of the community's essential air service determination, petitions should contain specific objections supported by relevant data, state how the modified determination departs from the guidelines for essential air service determinations, and state the level of essential air service that should be designated instead. The filing of such petitions, however, shall not stay the effective date of the modifications made in this order.

Service Transition

As a final matter, before Great Lakes suspends service at Decatur, we expect it to contact all passengers holding reservations for flights that will be suspended, to inform them of the termination and the availability of Trans States' continuing service, and assist them in arranging alternative transportation.

This order is issued under authority delegated in 49 CFR 1.56a(f).

ACCORDINGLY,

⁹ Based on November 1999 *Official Airline Guide*.

¹⁰ We note also that the added subsidy burden that would result from our compelling Great Lakes to maintain Decatur-Chicago service, coupled with other rising program demands, would likely exceed our current budgetary limits.

¹¹ Docket Operations and Media Management Division, SVC-124, Room PL-401, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590.

1. We will not prohibit Great Lakes Aviation, Ltd., d/b/a United Express, from suspending its scheduled air service at Decatur, Illinois, effective December 22, 1999;
2. We grant the motion for leave to file an unauthorized document filed by the Decatur Park District;
3. We amend the essential air service definition for Decatur, Illinois, to require at least the service outlined in Appendix B;
4. This docket shall remain open until further order of the Department; and
5. We will serve a copy of this order on the Mayor and airport manager of Decatur, Illinois, the Governor of Illinois, the Illinois Department of Transportation, City of Chicago Aviation Department, Trans States Airlines and Great Lakes Aviation, Ltd.

By:

A. BRADLEY MIMS

**Deputy Assistant Secretary for Aviation
and International Affairs**

(SEAL)

*An electronic version of this document is available on the World Wide Web at
<http://dms.dot.gov>*

APPENDIX A

**DECATUR, ILLINOIS
AND THE SURROUNDING AREA**



APPENDIX B

**ESSENTIAL AIR SERVICE DETERMINATION
FOR DECATUR, ILLINOIS**

Designated Hub:	Chicago or St. Louis
Maximum Number of Intermediate Stops:	Chicago -- One St. Louis -- None
Minimum Number of Round Trips:	Two Each Day
Minimum Number of Available Seats Each Day:	67 Inbound and 67 Outbound
Minimum Aircraft Size:	15 Passenger Seats